

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

FEB 28 2002

OFFICE OF
MANAGING DIRECTOR

Harry F. Cole, Esq.
Fletcher, Heald & Hildreth, P.L.C.
11th Floor
1300 North 17th Street
Arlington, Virginia 22209-3801

Re: Johanna Broadcasting, Inc., KTVC-TV, Roseburg,
Oregon
Request for Partial Reduction of FY 2000 Regulatory Fee
Fee Control No. 00000RROG-01-011

Dear Mr. Cole:

This is in response to your request dated September 27, 2001, for a reduction of the \$1,150.00 fiscal year (FY) 2000 regulatory fee filed on behalf of Johanna Broadcasting, Inc. (Johanna), licensee of Station KTVC-TV, Roseburg, Oregon. You request that the FY 2000 regulatory fee be reduced to \$287.50. Our records reflect that Johanna did not pay the FY 2000 regulatory fee.

In your request, you state that the former shareholders of Johanna ceased operation of Station KTVC-TV on or about March 28, 2000, and that they advised the Commission of the cessation of the station's operations in a formal complaint filed with the Commission on April 3, 2000 (*April 3 Formal Complaint*). You state that the present shareholders of Johanna resumed operation of Station KTVC-TV on March 16, 2001. Because Station KTVC-TV was not operating for nine months during fiscal year 2000, you request that Johanna be required to pay only 25 percent of the FY 2000 regulatory fee, i.e., \$287.50.¹

Section 1.1166(d) of the Commission's rules, 47 C.F.R. §1.1166(d), provides that:

[p]etitions for reduction of a fee must be accompanied by the full fee payment and Form 159. . . . Petitions for reduction that do not include the required fees or forms will be dismissed unless accompanied by a petition to defer payment due to financial hardship, supported by documentation of the financial hardship.

See also Assessment and Collection of Regulatory Fees for Fiscal Year 1999, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 19,927 (2000); 65 FR 78989 (section 1.1166(d), as amended, is effective Jan. 17, 2001). Your request for a

¹ Because your request in paragraph two on page two of your letter that Johanna be required to pay 75 percent of the FY 2000 regulatory fee is inconsistent with your request elsewhere in the letter that Johanna be required to pay only 25 percent of the fee, we assume that your request is for a 75 percent reduction of the fee.

reduction of the FY 2000 regulatory fee for Station KTVC-TV (which you filed with the Commission on September 27, 2001) did not include the required FY 2000 regulatory fee. Your request for reduction of the FY 2000 regulatory fee also did not include a petition to defer payment due to financial hardship, supported by documentation of the financial hardship. We therefore dismiss your request for a partial reduction of the FY 2000 regulatory fee associated with Station KTVC-TV under Section 1.1166(d) of the rules.

Assuming *arguendo* that your request was not subject to dismissal on procedural grounds, we find that the fact that the Commission may have been advised of the cessation of the Station KTVC-TV's operations in a formal complaint filed with the Commission on April 3, 2000, as you allege, does not provide support for a waiver of the FY 2001 regulatory fee. The Commission has determined that it will "grant petitions for waivers of the regulatory fees on grounds of financial hardship from licensees of broadcast stations which are dark (not operating)." *Implementation of Section 9 of the Communications Act, Assessment and Collection of Regulatory Fees for the 1994 Fiscal Year, Memorandum Opinion and Order*, 10 FCC Rcd 12759, para. 15 (1995) ("[m]oreover, broadcast stations which are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Rules"). You state that, according to the *April 3 Formal Complaint*, the former shareholders of the Station KTVC-TV "elected to shut the station off until they are given their full rights to operate their station without racism, discrimination, collusion, and restriction of trade." You further state that you are not aware of any effort which the former shareholders may have made to obtain Commission approval for the cessation of Station KTVC-TV's operation. Given that our records reflect that the station did not notify the Commission of the cessation of such operations as required under section 73.1740(a)(4) of the rules, we find that Station KTVC-TV has failed to support its request for a waiver of the FY 2000 regulatory fee as a dark station under the Commission's rules.

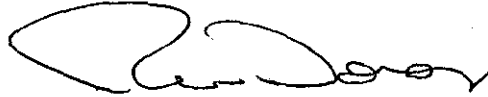
The Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner. It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. Your request does not indicate or substantiate that Station KTVC-TV met this obligation. Therefore, payment of Station KTVC-TV's FY 2000 regulatory fee of \$1,150.00 is due, plus a 25 percent late charge penalty of \$287.50. The regulatory fee and late charge penalty (totaling \$1,437.50) should be submitted, together with a Form 159 (copy enclosed) within 30 days of the day of this letter. Any payment received more than 30 days after the date of this letter may also be subject to interest. See 47 C.F.R. §1.1164.


Harry F. Cole, Esq.

3.

If you have any questions concerning this letter, please call the Revenue and Receivables Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a large, stylized initial "M" and "A".

 Mark A. Reger
Chief Financial Officer

Enclosure

ORIGINAL

00000RR06-01-011

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RECEIVED

September 27, 2001

HAND DELIVERED

SEP 27 2001

Magalie Roman Salas, Secretary
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Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: 2000-9MB-1296 - Regulatory fee for Station KTVC-TV,
Facility ID No. 31437, Roseburg, Oregon

Dear Ms. Salas:

I am writing on behalf of Johanna Broadcasting, Inc. ("Johanna"), licensee of Station KTVC-TV ("the Station"), Roseburg, Oregon, to request a waiver of 75% of the 2000 regulatory fee for that station based on the fact that the station was not operating during the months of April-December, 2000. Since the fee would normally have been \$1,150.00, Johanna requests that the fee be reduced to \$287.50.

While Johanna has been the licensee of the Station since it commenced operation, the current shareholders of Johanna were not the shareholders of Johanna from 1995 until 2001. As described in a transfer of control application, File No. BTCCT-20000807AGW, ownership of Johanna was transferred, pursuant to Commission approval, to Ronald and Brendyl Lees ("the Lees") in 1995. However, when the Lees failed to comply with certain obligations to the former Johanna shareholders, those former shareholders initiated civil action in the Circuit Court of Oregon for Lake County and, in March, 2000, the Lees were ordered to cooperate with the former Johanna shareholders in an application to obtain Commission approval to return the Johanna stock to the former shareholders.

Apparently in connection with the Court's ruling, the Lees ceased operation of the station on or about March 28, 2000. According to a "Formal Complaint", dated April 3, 2000, filed by the Lees with the Commission, "on 3/28/00, the Lees elected to shut the station off until they are given their full rights to operate their station without racism, discrimination, collusion, and restriction of trade." The present Johanna shareholders are not aware of any effort which the Lees may have made to obtain Commission approval for the cessation of the Station's operation prior to that cessation. Nevertheless, since the Lees advised the Commission of that cessation in their "Formal Complaint" of April 3, 2000 -- less than a week after the cessation -- the Commission was clearly on notice of the Station's operational status.

Magalie Roman Salas, Secretary
September 27, 2001
Page Two

The present shareholders of Johanna re-acquired their shares on January 15, 2001, and the Station resumed operation on March 16, 2001. Thus, from approximately March 28, 2000 through the end of 2000, the Station was not operating. Throughout that period, control of Johanna was held by the Lees, while the current Johanna shareholders sought, through the courts and the Commission, to re-acquire their stock in order to preserve the Station.

Since the Station was not in operation for 9 months during 2000, Johanna requests that it be required to pay only 75% of the regulatory fee for 2000.

Johanna understands that the non-operation of a station during a particular year may justify reduction of that year's regulatory fee for that station. Johanna also understands that, in such cases, the Commission's staff requests that the licensee demonstrate that the temporary cessation of operation was approved by the Commission. As discussed above, the Station was taken off-the-air by the Lees. The current Johanna shareholders do not know whether the Lees sought or obtained Commission approval prior to that action, but the Lees did notify the Commission of that action shortly after the Station ceased operation. The current Johanna shareholders are not aware of any communications to the Lees or to Johanna, during the period April-December, 2000, from the Commission ordering the immediate recommencement of operation or otherwise denying authority for the Station to remain dark.

In light of the circumstances described above, Johanna requests that the 2000 regulatory fee for Station KTVC-TV, Roseburg, Oregon, be reduced by 75%, to \$287.50.

Please call me if you have any questions about this matter.

Respectfully submitted,


Harry F. Cole
Counsel for Johanna Broadcasting, Inc.

Courtesy copy: Susan Donahue, Chief
Revenue & Receivables Operations Group